Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

Concluding observations on the initial report of Costa Rica*

I. Introduction

1. The Committee considered the initial report of Costa Rica (CRPD/C/CRI/1) at its 127th and 128th meetings, held on 2 and 3 April 2014 respectively. At its 140th meeting, held on 11 April 2014, the Committee adopted the following concluding observations.

2. The Committee welcomes the initial report of Costa Rica and is grateful for the written replies (CRPD/C/CRI/Q/1/Add.1) to the list of issues prepared by the Committee (CRPD/C/CRI/Q/1). It is also grateful for the dialogue held with the State party's delegation, headed by Mr. Manuel B. Dengo, Permanent Representative of Costa Rica to the United Nations Office at Geneva.

II. Positive aspects

3. The Committee commends the State party for the adoption of Act No. 9049 of June 2012, recognizing Costa Rican sign language as an official language and ordering the education of the deaf community to be carried out in that language.

4. The Committee takes note of the adoption of Act No. 18283 of February 2014, amending Act No. 7600 on Equal Opportunities for Persons with Disabilities (1966) to bring the definition of persons with disabilities and of accessibility into line with the Convention.

III. Principal areas of concern and recommendations

A. General principles and obligations (arts. 1 to 4)

5. The Committee is concerned that the State party continues to use inappropriate and pejorative terminology when referring to persons with disabilities in various pieces of legislation, employing terms such as "inválidos" (invalids), "incapaces" (incapacitated), "minusválidos" (handicapped), "insanos" (insane) and "enfermos desvalidos" (infirm

* Adopted by the Committee at its eleventh session (31 March–11 April 2014).

persons who are destitute or helpless). It notes with concern that the disability assessment criteria used for purposes of medical or social assistance are limited to the medical model of disability.

6. **The Committee calls on the State party to eliminate the use of pejorative terms when referring to persons with disabilities. In addition, it urges the State party to ensure that the disability assessment criteria used by the various services are standardized, in line with the Convention.**

7. The Committee is concerned that the State party has not systematically harmonized its legislation since ratifying the Convention, that the only reference to the rights of persons with disabilities is to be found in Act No. 7600 on Equal Opportunities for Persons with Disabilities, which dates from 1996, and that the Act does not include the general principles and obligations contained in the Convention.

8. **The Committee recommends that the State party systematically revise its domestic law, including the Constitution, in order to bring it into line with the general principles and obligations contained in the Convention. The revision should cover civil, family, criminal, labour and education law.**

9. The Committee expresses its concern that the State party has not established permanent mechanisms for consulting organizations of persons with disabilities, in accordance with article 4, paragraph 3, of the Convention, when adopting plans, policies and legislation to give effect to the Convention.

10. **The Committee recommends that the State party establish permanent consultation mechanisms with organizations of persons with disabilities, in accordance with article 4, paragraph 3, of the Convention, respecting their autonomy and taking into account the diversity of persons with disabilities, including children and women with disabilities, and the country's indigenous population.**

B. Specific rights (arts. 5 to 30)

Equality and non-discrimination (art. 5)

11. The Committee regrets that anti-discrimination legislation does not recognize discrimination on the basis of disability and denial of reasonable accommodation as a form of discrimination. It is also concerned about the limited progress made in combating multiple discrimination on the basis of, among other grounds, age, gender, ethnicity and residence in a rural area.

12. **The Committee urges the State party to take the legislative and administrative measures necessary to prohibit discrimination on the basis of disability, and to explicitly include denial of reasonable accommodation as a form of discrimination on the basis of disability. The State party should strengthen institutions and mechanisms to protect the rights of persons with disabilities by means of inter-agency coordination and specific measures to combat multiple discrimination.**

Women with disabilities (art. 6)

13. The Committee regrets the absence of measures in the State party to achieve de facto equality of women with disabilities and of measures to ensure that women and girls with disabilities are effectively included in general gender equality policies. It is further concerned about the lack of specific actions by the National Institute for Women in respect of women and girls with disabilities and the lack of information provided by the State party on the progress of measures taken to accelerate their full and effective participation in political and public affairs.

14. **The Committee requests the State party to ensure the inclusion of women and girls with disabilities in policies for women and gender equality through greater participation in the National Institute for Women. It further requests the State party to take steps to protect women and girls with disabilities from discrimination on the basis of disability and gender; and to accelerate measures to ensure their full and effective participation in political affairs.**

Children with disabilities (art. 7)

15. The Committee notes with concern that the State party has conducted no survey on the situation of children with disabilities, including indigenous children, who are placed in institutions, abandoned, victims of abuse or living in poverty or in rural settings. Furthermore, the Committee regrets that the National Child Welfare Agency reflects the assistance-based and irregular situation model, disregarding the rights of children with disabilities. The Committee is also concerned at the fact that disability is not mainstreamed in Act No. 7739, the Children and Adolescents Code, and that article 62 of the Code, on the right to special education, is not in line with article 24 of the Convention.

16. **The Committee recommends that the State party take urgent measures to protect children with disabilities from abuse and abandonment, and to prevent institutionalization. It also urges the State party to guarantee freedom of expression and opinion for children with disabilities. The Committee also urges the State party to amend the Children and Adolescents Code to include disability as a cross-cutting theme, and to amend article 62 of the Code, on the right to special education, to guarantee children with disabilities inclusive education of quality.**

Awareness-raising (art. 8)

17. The Committee notes with concern the lack of programmes and rights-based public campaigns to promote the human rights model of disability.

18. **The Committee urges the State party to encourage extensive awareness-raising campaigns to reinforce the positive image of persons with disabilities as holders of human rights. In particular, it recommends that the State party fully inform persons with disabilities — and society at large — about their human rights, using various formats, media and modes of communication such as Braille and sign language and other accessible formats, and to encourage a culture of respect for those rights.**

Accessibility (art. 9)

19. The Committee is concerned that measures to implement the Act on Equal Opportunities for Persons with Disabilities (Act No. 7600) in the area of accessibility have focused on physical and public transport accessibility, while disregarding information and communication accessibility. The Committee is further concerned that only 18 out of 81 municipalities have Municipal Commissions on Accessibility and Disability and that the impact of these commissions is not known.

20. **The Committee urges the State party to adopt regulations on accessibility to the physical environment, transport, information and communication, in line with the Convention, and to implement accessibility plans with measurable goals and timetables, as well as sanctions for non-compliance. The Committee urges the State party to comply with the statutory deadline of 2014 for ensuring full accessibility to public transport. It also recommends that adequate budgetary funds be allocated to implement municipal accessibility plans and to ensure monitoring and evaluation of those plans by organizations of persons with disabilities.**

Equal recognition before the law (art. 12)

21. The Committee expresses its concern about the continuing existence of such procedures as interdiction and the declaration of mental insanity in respect of persons with disabilities, and the resulting restrictions on the exercise of other rights, including the right to vote and the right to have a home and found a family.

22. **The Committee urges the State party to approve the bill on the personal autonomy of persons with disabilities (No. 17507), to revise and repeal article 91 of the Constitution and to repeal the provisions of the Civil Code and the Code of Civil Procedure governing incapacity and insanity proceedings on the basis of disability. It recommends that the State party establish safeguards for persons with disabilities and develop a model for support in the decision-making process that takes due account of the individual's autonomy, free will and preferences, and of their rights, including the right to free and informed consent to receive medical treatment, the right of access to justice, and the rights to vote, to marry and to choose their place of residence.**

23. The Committee notes with concern that it is banking practice not to consider persons with disabilities creditworthy.

24. **The Committee urges the State party to ensure that persons with disabilities have access to loans, mortgages and a full range of financial services on an equal basis with others.**

Access to justice (art. 13)

25. The Committee is concerned that measures on access to justice have been confined to physical accessibility, that care manuals and protocols have not been produced and that training for persons involved in the administration of justice has been inadequate and does not include all aspects of the rights of persons with disabilities.

26. **The Committee recommends that the State party review its administrative and judicial rules and procedures with a view to adapting them and ensuring access to justice for persons with disabilities, including the guarantee of interpretation in Costa Rican sign language, the use of augmentative and alternative modes of communication and full accessibility to the physical environment, transport and communication.**

27. The Committee is concerned that persons with disabilities undergoing criminal proceedings have no guarantees of due process adapted to their disability.

28. **The Committee urges the State party to review judicial proceedings in criminal cases to ensure that all proceedings involving persons with disabilities are subject to due process safeguards. The Committee recommends that the State party amend its criminal legislation in order to make penalties applicable to persons with disabilities subject to the same guarantees and conditions as those applicable to any other person who is the subject of criminal proceedings, making provision as necessary for reasonable accommodation and procedural adjustments.**

Liberty and security of the person (art. 14)

29. The Committee is concerned about the situation of persons with disabilities who have been institutionalized on grounds of their disability and women and children with disabilities who are in a situation of abandonment or abuse, and the fact that their disability is the reason for their institutionalization.

30. **The Committee calls on the State party to implement strategies to deinstitutionalize persons with disabilities and to protect them from violence, abuse**

and ill-treatment of any kind through ongoing monitoring by the Ombudsman's Office or other independent human rights monitoring mechanism.

Freedom from torture and other cruel, inhuman or degrading treatment or punishment (art. 15)

31. The Committee deeply regrets the progress made in the adoption of Bill No. 17777 on Biomedical Research, which was passed by the Legislative Assembly on second reading in April 2014 and authorizes the guardians of persons declared legally incapable to make decisions concerning their participation in scientific experimentation and research without their free and informed consent.

32. **The Committee calls on the State party to withdraw Bill No. 17777 on Biomedical Research from the legislative agenda as a matter of urgency.**

33. The Committee is concerned that persons with disabilities are forcibly interned in psychiatric institutions and are subjected to acts considered cruel, inhuman or degrading treatment.

34. **The Committee urges the State party to ensure that the national mechanism for the prevention of torture monitors psychiatric institutions on an ongoing basis and that the competent authorities eliminate practices involving forced internment on grounds of disability. In addition, as long as institutionalization continues, the State party should ensure that the clinical treatments administered to interned persons fully respect their dignity and human rights.**

Freedom from exploitation, violence and abuse (art. 16)

35. The Committee is concerned about the lack of measures and protocols to protect women and girls with disabilities from exploitation, violence and abuse.

36. **The Committee calls on the State party to ensure that women and children with disabilities are able to access protection mechanisms, such as temporary shelters and therapies to aid recovery from violence, abuse and exploitation, in an autonomous manner, and that these mechanisms are fully accessible. It also calls for the establishment of a system of indicators of violence, abuse and exploitation of persons with disabilities that takes account of gender and age.**

Protecting the integrity of the person (art. 17)

37. The Committee is deeply concerned at the practice of forcing women and girls with disabilities to undergo sterilization.

38. **The Committee urges the State party to take steps to eradicate the practice of forced sterilization, to raise awareness of the rights of women and girls with disabilities within their families and among managers of the institutions in which they are interned, and to guarantee full respect for their personal, physical and mental integrity by ensuring that mechanisms providing protection against forced sterilization are effective and accessible.**

Right to live independently and to be included in the community (art. 19)

39. The Committee regrets that there is no deinstitutionalization strategy for persons with disabilities in the State party. It is also concerned to note that, in the absence of due State supervision and control, the number of private care homes and shelters in which persons with disabilities are institutionalized is rising.

40. **The Committee urges the State party to immediately adopt a deinstitutionalization policy for persons with disabilities, including those in psychiatric hospitals, and which incorporates a comprehensive, human rights-centred mental health strategy. It also recommends the establishment of institutional facilities for persons with disabilities to be controlled and discouraged, and urges the State party to adopt a policy of developing community services so as to ensure that persons with disabilities can be included in the community.**

Freedom of expression and opinion, and access to information (art. 21)

41. The Committee is concerned that information disseminated through the media is not accessible in Costa Rican sign language and that institutions — in particular, institutions working to protect the rights of persons with disabilities — do not have sign language interpreters.

42. **The Committee recommends that the State party comply with legislation on the Costa Rican sign language interpretation of news programmes broadcast by the media, and on the hiring of Costa Rican sign language interpreters in institutions, in particular those working to safeguard human rights.**

Respect for home and the family (art. 23)

43. The Committee expresses concern that women with disabilities, especially those with psychosocial and intellectual disabilities, are separated from their children on grounds of their disability.

44. **The Committee urges the State party to review the procedures by which women with disabilities are declared unfit mothers and fully restore their rights to have a home and found a family, ensuring that they have the support necessary to make these rights effective.**

Education (art. 24)

45. The Committee regrets the continuing existence of the special education model, under which children and young people with disabilities are segregated and have no access to inclusive education, and that training for teachers and other professional staff continues to be provided within this specialized framework.

46. The Committee urges the State party to adopt a policy of training teachers in the inclusive education model, and to guarantee inclusive education by providing support for trained teachers, Braille, Costa Rican sign language, alternative means and modes of communication, easy reading texts and other auxiliary equipment and media.

47. The Committee is concerned about the lack of indicators on the educational inclusion of children, young people and adults with disabilities. It is particularly concerned to note that exclusion is greater among adults with disabilities, women and girls with disabilities, persons with multiple disabilities, indigenous persons and those living in rural areas.

48. **The Committee recommends that the State party ensure access to inclusive education for all persons with disabilities, at all levels of education including adult education and throughout the country, and guarantee that this education model covers the most remote areas, incorporates the gender perspective and is ethnically and culturally relevant.**

Health (art. 25)

49. The Committee is concerned about the scant progress made towards ensuring that general and specialized health services are fully accessible to persons with disabilities, which is evidenced by the lack of appropriate medical equipment, fittings and facilities and the fact that neither Costa Rican sign language interpreters nor timely, accessible information are available. The Committee is also concerned about the limited extent to which persons with disabilities are included in sexual and reproductive health policies, programmes and services, including those related to HIV/AIDS, which disproportionately affects women and girls with disabilities. The Committee regrets that no mechanisms have been established to ensure that all services provided to persons with disabilities are delivered only with their free and informed consent.

50. **The Committee calls for a strengthening of efforts to ensure that all health policies, programmes and services, including in sexual and reproductive health and those related to HIV/AIDS, are fully accessible and incorporate a gender perspective, especially in rural areas and at the community level. The State party should ensure that persons with disabilities give their free and informed consent, through appropriate mechanisms, before receiving health services of any kind.**

51. The Committee regrets that the State party's approach to mental health care is based on the medical model and that no plans to move towards a community care model are being implemented.

52. **The Committee urges the State party to allocate resources and to expedite implementation of the national policy for community-based mental health-care services.**

Habilitation and rehabilitation (art. 26)

53. The Committee is concerned about the centralization of rehabilitation services and the lack of community-based services. The lack of paediatric rehabilitation services is also a source of concern.

54. **The Committee urges the State party to adopt a strategy to promote community-based rehabilitation services focused on developing the capacities of persons with disabilities from an early age.**

Work and employment (art. 27)

55. The Committee regrets the lack of data concerning compliance with the 5 per cent employment quota for persons with disabilities in the public sector. It is also concerned about the lack of measures to promote their employment in the private sector and the absence of regulations to ensure the provision of reasonable accommodation.

56. **The Committee recommends that the State party adopt the measures necessary to raise awareness among employers and promote the employment of persons with disabilities in the private sector, including affirmative action programmes and legislation on reasonable accommodation. The State party should also monitor compliance with employment quotas in the public sector.**

Adequate standard of living and social protection (art. 28)

57. The Committee is concerned that housing allowances and medicine subsidies for persons with disabilities are disbursed only to those who meet poverty criteria and do not take account of the socioeconomic factors that aggravate disabilities.

58. **The Committee recommends that the State party adopt a public policy of inclusive development based on the human rights model for persons with disabilities, which incorporates the gender perspective and gives specific consideration to indigenous persons and those living in rural areas. It also recommends that, as part of its social protection and anti-poverty policies, it provides assistance in alleviating the severe socioeconomic disadvantages that result from the exclusion experienced by persons with disabilities.**

Participation in political and public life (art. 29)

59. The Committee regrets that the State party has denied the right to vote to persons with disabilities declared legally incompetent. It is also concerned about the absence of information concerning persons with intellectual or psychosocial disabilities who have been removed from the electoral register on grounds of their disability. It is also concerned at the fact that no Costa Rican sign language interpretation was provided for information on the 2014 elections.

60. **The Committee recommends that the State party immediately restore the right to vote of persons with intellectual or psychosocial disabilities. It further calls for the right to vote to be recognized to all persons with disabilities, including those who require more extensive assistance, ensuring that procedures, facilities and materials are appropriate, accessible and easy to understand and use. It also recommends that information on elections should be provided in accessible formats, including using Costa Rican sign language.**

Participation in cultural life, recreation, leisure and sport (art. 30)

61. The Committee is concerned about the fact that the State party has still not ratified the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, which would enable persons who are blind, visually impaired or otherwise print disabled to access published works.

62. **The Committee urges the State party to take the appropriate steps to ratify and implement the Marrakesh Treaty as soon as possible.**

C. Specific obligations (arts. 31–33)

Statistics and data collection (art. 31)

63. The Committee is concerned that the concept of disability used in the last population census, in 2011, is the medical model, and that the census results have not been made available. It is also concerned at the lack of consistency in collecting data on the situation of persons with disabilities.

64. **The Committee recommends that the State party gather disaggregated data on persons with disabilities that is consistent with the human rights model, and that it consult disabled persons' organizations regarding the criteria used in gathering that data. It also recommends that the State party systematize the gathering, analysis and publication of statistical data taking account of specific sectors of persons with disabilities.**

National implementation and monitoring (art. 33)

65. The Committee is concerned that the State party has not designated bodies responsible for implementing the Convention (focal points) or held consultations with disabled persons' organizations in that regard. The Committee is concerned that no

independent monitoring mechanism has been set up that is in compliance with the Paris Principles, and that the Ombudsman's Office plays little part in such monitoring.

66. **The Committee calls on the State party to consult with disabled persons' organizations in creating or designating focal points for implementing the Convention, and where it decides to set up coordinating mechanisms for the same purpose. The Committee urges the State party to designate an independent monitoring mechanism that is in compliance with the Paris Principles, and to strengthen its capacity by providing an adequate budget and resources to ensure that it can effectively discharge its mandate.**

Cooperation and technical assistance

67. Under article 37 of the Convention, the Committee can provide technical guidance to the State party on any queries addressed to the experts via the secretariat. The State party can also seek technical assistance from United Nations specialized agencies with headquarters in the country or the region.

Follow-up to concluding observations and dissemination

68. The Committee requests the State party to provide, within 12 months and in accordance with article 35, paragraph 2, of the Convention, written information on the steps undertaken to implement the recommendations contained in paragraphs 32 and 66.

69. The Committee asks the State party to act upon the recommendations of the Committee as set forth in these concluding observations. It recommends that the State party forward the concluding observations, for consideration and action, to the Government and the National Assembly, officials of the competent ministries, members of the judiciary and members of relevant professions, such as education, medical and legal specialists, along with local authorities, the private sector and the media, using accessible social communication strategies.

70. The Committee asks the State party to disseminate these concluding observations widely in accessible formats, particularly to NGOs, disabled persons' organizations, persons with disabilities themselves and members of their families.

71. The Committee strongly encourages the State party to involve civil society organizations, in particular disabled persons' organizations, in the preparation of its next periodic reports.

Next report

72. The Committee asks the State party to submit its combined second and third periodic reports by 1 November 2018. The Committee can also offer the State party the opportunity to present its combined reports under the simplified reporting procedure, whereby the Committee prepares a list of issues at least one year before the date the reports are due. The State party's reply to this list of issues would then constitute the State party's report.